WP(C) 3439/2007

BEFORE

THE HON'BLE MR JUSTICE IA ANSARI

Pursuant to a Notice Inviting Tender, dated 30-03-2007, for the work of construction of doctor's quarter (one Unit) and Nurse's quarter (three units) (Assam Type), at Gauripur CHC, in Dhubri District, issued by the respondent No.2, namely, Chief Engineer, PWD (Building), Guwahati, Assam, the petitioner, amongst others, submitted tender. One of the conditions under the NIT was that the tenderer shall affix Court Fee of Rs. 1.25 with the tender. When the tender, submitted by the bidders, were opened, the petitioner was found to have not affixed the requisite Court Fees with the tender papers. Treating the tender papers, submitted by the petitioner, as invalid, comparative statement in respect of other valid tenderers was prepared. On the following day of the opening of the tender papers, the petitioner submitted a representation (Annexure - C) informing the respondent No.2 to the effect, inter alia, that due to oversight, the petitioner had not affixed the Court Fees with the original tender papers and, on coming to know that the tender papers shall be accompanied by Court Fees, the petitioner had dropped an envelope containing the requisite Court Fees into the box meant for submission of tender papers. When the petitioner's tender was not treated as valid, the petitioner came to this Court with the help of a writ petition made under Article 226 of the Constitution of India. This writ application gave rise to WP(C) No. 2327/2007, which was disposed of, on 25-05-2007, with direction to the respondents concerned to consider the petitioner's representation and dispose of the same according to the relevant Rules and Regulations. Having considered the petitioner's representation, respondent No. 3, passed an order, on 28-06-2007, rejecting the petitioner's said representation. Aggrieved by rejection of the representation, the petitioner has, once again, come to this Court with the help of the present application, made under Article 226, seeking issuance of the appropriate Writ(s).

Heard Mr. B Goswami, learned counsel for the petitioner, and Ms. R Deka, learned Standing counsel, PWD, Department, appearing on behalf of the respondents.

I have carefully perused the petitioner's representation, dated 13-04-2007, aforementioned and what I notice is that in the representation, the petitioner had not mentioned that the petitioner was present at the time, when the tender papers were opened nor did the petitioner point out to the respondents/ authorities concerned by the said representation that though the petitioner had not affixed the requisite Court Fees with the tender paper, he had dropped the Court Fees in an envelope with proper address. In such circumstances, when I consider the impugned order, dated 28-06-2007, what I find is that according to the respondent No. 2, it was only on the following day that the petitioner had submitted the representation. There is nothing on record to indicate that the petitioner had brought it to the notice of the respondents/ authorities concerned at the time, when the tender papers were opened that the petitioner had submitted the Court Fees in a separate envelope.

While consider the impugned order, it needs to be borne in mind that the order to be passed by the respondent No. 2 was an administrative order. The scope judicial review in respect of such an order is limited to the extent of examining if any relevant factor had been excluded, while considering the representation, or an irrelevant factor had been taken into account, while making the order. On a careful examination of the impugned order, I find that the respondent No. 2 had taken into account all the relevant factors into consideration and had not taken into account any factor, which was irrelevant. Considered thus, it is clear that the impugned order is not one, which warrants interference by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India.

In view of the above, this writ petition is not admitted and the same shall accordingly stand dismissed.

No order as to costs.